

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 340

HOUSE BILL 2676

AN ACT

AMENDING TITLE 15, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8;
MAKING AN APPROPRIATION; RELATING TO SCHOOL ENROLLMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 8, Arizona Revised Statutes, is amended
3 by adding article 8, to read:

4 ARTICLE 8. ARIZONA SCHOLARSHIPS FOR
5 PUPILS WITH DISABILITIES

6 15-891. Arizona scholarships for pupils with disabilities
7 program; definition

8 A. THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM IS
9 ESTABLISHED TO PROVIDE PUPILS WITH DISABILITIES WITH THE OPTION OF ATTENDING
10 ANY PUBLIC SCHOOL OF THE PUPIL'S CHOICE OR RECEIVING A SCHOLARSHIP TO ANY
11 QUALIFIED SCHOOL OF THE PUPIL'S CHOICE.

12 B. THE PARENT OF A PUBLIC SCHOOL PUPIL WITH A DISABILITY WHO IS
13 DISSATISFIED WITH THE PUPIL'S PROGRESS MAY REQUEST AND RECEIVE FROM THE STATE
14 A SCHOLARSHIP FOR THE CHILD TO ENROLL IN AND ATTEND ANY QUALIFIED SCHOOL IN
15 ACCORDANCE WITH THIS SECTION IF BOTH OF THE FOLLOWING APPLY:

16 1. THE CHILD HAS SPENT THE PRIOR SCHOOL YEAR IN ATTENDANCE AT A PUBLIC
17 SCHOOL IN THIS STATE.

18 2. THE PARENT HAS OBTAINED ACCEPTANCE FOR ADMISSION OF THE PUPIL TO A
19 QUALIFIED SCHOOL THAT IS ELIGIBLE FOR THE PROGRAM UNDER THIS ARTICLE AND HAS
20 NOTIFIED THE SCHOOL DISTRICT OF THE REQUEST FOR A SCHOLARSHIP AT LEAST SIXTY
21 DAYS BEFORE THE DATE OF THE FIRST SCHOLARSHIP PAYMENT. THE PARENTAL
22 NOTIFICATION MUST BE THROUGH A COMMUNICATION DIRECTLY TO THE SCHOOL DISTRICT
23 OR THROUGH THE DEPARTMENT OF EDUCATION TO THE SCHOOL DISTRICT IN A MANNER
24 THAT CREATES A WRITTEN OR ELECTRONIC RECORD OF THE NOTIFICATION AND THE DATE
25 OF RECEIPT OF THE NOTIFICATION.

26 C. THIS SECTION DOES NOT APPLY TO A PUPIL WHO IS ENROLLED IN THE STATE
27 EDUCATIONAL SYSTEM FOR COMMITTED YOUTH PURSUANT TO CHAPTER 11.1 OF THIS
28 TITLE.

29 D. A SCHOLARSHIP AWARDED PURSUANT TO THIS ARTICLE REMAINS IN FORCE
30 UNTIL THE PUPIL RETURNS TO A PUBLIC SCHOOL OR GRADUATES FROM HIGH SCHOOL,
31 EXCEPT THAT THE PUPIL'S PARENT MAY REMOVE THE PUPIL FROM THE QUALIFIED SCHOOL
32 AT ANY TIME AND PLACE THE PUPIL IN ANOTHER QUALIFIED SCHOOL THAT IS ELIGIBLE
33 FOR PARTICIPATION IN THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES
34 PROGRAM OR IN A PUBLIC SCHOOL AS PROVIDED IN THIS ARTICLE.

35 E. NOTWITHSTANDING THE ENROLLMENT POLICIES OR DESEGREGATION PROVISIONS
36 PRESCRIBED IN ARTICLE 1.1 OF THIS CHAPTER, A SCHOOL DISTRICT OR CHARTER
37 SCHOOL SHALL ENROLL ANY CHILD PURSUANT TO THIS ARTICLE.

38 F. FOR THE PURPOSES OF THIS ARTICLE:

39 1. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY SCHOOL OR
40 SECONDARY SCHOOL OR A PRESCHOOL FOR HANDICAPPED STUDENTS THAT IS LOCATED IN
41 THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR,
42 HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN.

43 2. "PUPIL WITH A DISABILITY" MEANS A CHILD WITH A DISABILITY AS
44 DEFINED IN SECTION 15-761 WHO HAS BEEN ISSUED AN INDIVIDUALIZED EDUCATION
45 PROGRAM AS DEFINED IN SECTION 15-761.

1 15-891.01. Obligations of school districts and department of
2 education

3 A. A SCHOOL DISTRICT SHALL TIMELY NOTIFY THE PARENT OF EACH PUPIL WITH
4 A DISABILITY OF ALL OPTIONS AVAILABLE PURSUANT TO THIS ARTICLE AND OFFER THAT
5 PUPIL'S PARENT AN OPPORTUNITY TO ENROLL THE PUPIL IN ANOTHER PUBLIC SCHOOL
6 WITHIN THE DISTRICT. THE PARENT IS NOT REQUIRED TO ACCEPT THIS OFFER INSTEAD
7 OF REQUESTING AN ARIZONA SCHOLARSHIP TO A QUALIFIED SCHOOL. HOWEVER, IF THE
8 PARENT CHOOSES THE PUBLIC SCHOOL OPTION, THE PUPIL MAY CONTINUE ATTENDING A
9 PUBLIC SCHOOL CHOSEN BY THE PARENT UNTIL THE PUPIL GRADUATES FROM HIGH
10 SCHOOL. THE TRANSPORTATION PROVISIONS SET FORTH IN SECTION 15-816.01 APPLY
11 TO PUPILS WHO PARTICIPATE IN THE SCHOLARSHIP PROGRAM PURSUANT TO THIS
12 ARTICLE.

13 B. IF THE PARENT CHOOSES THE QUALIFIED SCHOOL OPTION AND THE PUPIL IS
14 ACCEPTED BY THE QUALIFIED SCHOOL PENDING THE AVAILABILITY OF SPACE FOR THE
15 PUPIL, THE PARENT OF THE PUPIL MUST NOTIFY THE SCHOOL DISTRICT SIXTY DAYS
16 BEFORE THE FIRST SCHOLARSHIP PAYMENT AND BEFORE ENROLLING THE CHILD IN THE
17 QUALIFIED SCHOOL TO BE ELIGIBLE FOR THE SCHOLARSHIP WHEN SPACE BECOMES
18 AVAILABLE FOR THE PUPIL IN THE QUALIFIED SCHOOL.

19 C. THE PARENT OF A PUPIL MAY CHOOSE TO ENROLL THE PUPIL IN AND
20 TRANSPORT THE PUPIL TO A PUBLIC SCHOOL IN AN ADJACENT SCHOOL DISTRICT THAT
21 HAS AVAILABLE SPACE AND THAT HAS A PROGRAM THAT COMPLIES WITH THE PUPIL'S
22 INDIVIDUALIZED EDUCATION PROGRAM, AND THAT SCHOOL DISTRICT SHALL ACCEPT THE
23 PUPIL FOR ADMISSION TO THE PUBLIC SCHOOL.

24 D. IF A PARENT OF A PUPIL WHO RESIDES IN THE SCHOOL DISTRICT AND WHO
25 PARTICIPATES IN THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM
26 REQUESTS THAT THE PUPIL TAKE ANY OF THE STATEWIDE TESTS PRESCRIBED BY THIS
27 TITLE, THE SCHOOL DISTRICT SHALL PROVIDE LOCATIONS AND TIMES TO TAKE THESE
28 STATEWIDE TESTS.

29 E. A SCHOOL DISTRICT SHALL NOTIFY THE DEPARTMENT OF EDUCATION WITHIN
30 TEN DAYS AFTER THE SCHOOL DISTRICT RECEIVES NOTIFICATION OF A PARENT'S INTENT
31 TO APPLY FOR A SCHOLARSHIP FOR A PUPIL WITH A DISABILITY.

32 15-891.02. Qualified school eligibility

33 TO BE ELIGIBLE TO PARTICIPATE IN THE ARIZONA SCHOLARSHIPS FOR PUPILS
34 WITH DISABILITIES PROGRAM, A QUALIFIED SCHOOL SHALL BE LOCATED IN THIS STATE
35 AND MAY BE SECTARIAN OR NONSECTARIAN.

36 15-891.03. Obligations of program participants

37 A. PARENTS WHO APPLY FOR ARIZONA SCHOLARSHIPS PURSUANT TO THIS ARTICLE
38 ARE EXERCISING THEIR PARENTAL OPTION TO PLACE THEIR CHILDREN IN A QUALIFIED
39 SCHOOL. A PARENT EXERCISING THIS OPTION SHALL SELECT THE QUALIFIED SCHOOL
40 AND APPLY FOR THE ADMISSION OF THE PUPIL.

41 B. THE PARENT SHALL REQUEST THE SCHOLARSHIP OFFERED PURSUANT TO THIS
42 ARTICLE AT LEAST SIXTY DAYS BEFORE THE DATE OF THE FIRST SCHOLARSHIP PAYMENT.

43 C. ANY PUPIL WHO PARTICIPATES IN THE SCHOLARSHIP PROGRAM OFFERED
44 PURSUANT TO THIS ARTICLE SHALL REMAIN IN ATTENDANCE THROUGHOUT THE SCHOOL
45 YEAR, UNLESS THE PUPIL IS EXCUSED BY THE SCHOOL FOR ILLNESS OR FOR OTHER GOOD

1 CAUSE, AND THE PUPIL SHALL FULLY COMPLY WITH THE SCHOOL'S WRITTEN POLICIES
2 CONCERNING STUDENT CONDUCT.

3 D. THE PARENT OF EACH PUPIL WHO PARTICIPATES IN THE SCHOLARSHIP
4 PROGRAM SHALL COMPLY FULLY WITH THE QUALIFIED SCHOOL'S PARENTAL INVOLVEMENT
5 REQUIREMENTS, UNLESS THE PARENT IS EXCUSED BY THE SCHOOL FOR ILLNESS OR FOR
6 OTHER GOOD CAUSE.

7 E. IF THE PARENT REQUESTS THAT THE PUPIL WHO PARTICIPATES IN THE
8 SCHOLARSHIP PROGRAM PARTICIPATE IN THE STATEWIDE TESTS PRESCRIBED BY THIS
9 TITLE, THE PARENT IS RESPONSIBLE FOR TRANSPORTING THE PUPIL TO AN ASSESSMENT
10 SITE DESIGNATED BY THE SCHOOL DISTRICT.

11 F. ON RECEIPT OF A SCHOLARSHIP WARRANT, THE PARENT TO WHOM THE WARRANT
12 IS ISSUED SHALL RESTRICTIVELY ENDORSE THE WARRANT TO THE QUALIFIED SCHOOL FOR
13 DEPOSIT INTO THE ACCOUNT OF THE QUALIFIED SCHOOL.

14 G. A PARTICIPANT WHO FAILS TO COMPLY WITH THIS SECTION FORFEITS THE
15 SCHOLARSHIP AWARDED PURSUANT TO THIS ARTICLE.

16 15-891.04. Scholarship funding and payment; fund; liability;
17 rules

18 A. THE MAXIMUM SCHOLARSHIP GRANTED FOR A PUPIL WITH A DISABILITY SHALL
19 BE EQUIVALENT TO THE BASE SUPPORT LEVEL PRESCRIBED IN SECTION 15-943 FOR THAT
20 PARTICULAR PUPIL.

21 B. THE AMOUNT OF ANY ASSESSMENT FEE REQUIRED BY THE PARTICIPATING
22 QUALIFIED SCHOOL MAY BE PAID FROM THE TOTAL AMOUNT OF THE SCHOLARSHIP. THE
23 AMOUNT OF THE ARIZONA SCHOLARSHIP SHALL BE THE LESSER OF:

24 1. THE AMOUNT PRESCRIBED IN SUBSECTION A OF THIS SECTION.

25 2. THE AMOUNT OF THE QUALIFIED SCHOOL'S TUITION AND FEES OR THE ACTUAL
26 PER PUPIL COSTS, WHICHEVER IS GREATER.

27 C. IF THE PARTICIPATING QUALIFIED SCHOOL REQUIRES PARTIAL PAYMENT OF
28 TUITION BEFORE THE START OF THE ACADEMIC YEAR TO RESERVE SPACE FOR PUPILS
29 ADMITTED TO THE SCHOOL, A PARTIAL SCHOLARSHIP PAYMENT MAY BE PAID BY THE
30 DEPARTMENT OF EDUCATION BEFORE THE FIRST QUARTERLY PAYMENT OF THE YEAR IN
31 WHICH THE ARIZONA SCHOLARSHIP IS AWARDED, UP TO A MAXIMUM OF ONE THOUSAND
32 DOLLARS, AND THE AMOUNT OF THIS PAYMENT SHALL BE DEDUCTED FROM SUBSEQUENT
33 SCHOLARSHIP PAYMENTS. IF A PUPIL DECIDES NOT TO ATTEND THE PARTICIPATING
34 QUALIFIED SCHOOL, THE PARTIAL RESERVATION PAYMENT SHALL BE RETURNED TO THE
35 DEPARTMENT OF EDUCATION BY THE PARTICIPATING QUALIFIED SCHOOL. A PUPIL SHALL
36 NOT BE AWARDED MORE THAN ONE RESERVATION PAYMENT PER YEAR.

37 D. THE SCHOOL DISTRICT SHALL REPORT TO THE DEPARTMENT OF EDUCATION ALL
38 PUPILS WHO ARE ATTENDING A QUALIFIED SCHOOL UNDER THE SCHOLARSHIP PROGRAM
39 OFFERED PURSUANT TO THIS ARTICLE.

40 E. THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM FUND
41 IS ESTABLISHED CONSISTING OF MONIES APPROPRIATED FOR THIS PURPOSE. THE
42 DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE
43 CONTINUOUSLY APPROPRIATED. FOLLOWING NOTIFICATION OF THE NUMBER OF PROGRAM
44 PARTICIPANTS IN THE SCHOLARSHIP PROGRAM, THE DEPARTMENT OF EDUCATION SHALL
45 TRANSFER FROM THE FUND THE AMOUNT CALCULATED UNDER SUBSECTION A OF THIS

1 SECTION IN QUARTERLY INSTALLMENTS TO THE PARENTS OF PUPILS WHO PARTICIPATE IN
2 THE SCHOLARSHIP PROGRAM. WHEN A PUPIL ENTERS THE SCHOLARSHIP PROGRAM, THE
3 DEPARTMENT OF EDUCATION SHALL RECEIVE ALL DOCUMENTATION REQUIRED FOR THE
4 PUPIL'S PARTICIPATION, INCLUDING THE QUALIFIED SCHOOL'S AND PUPIL'S FEE
5 SCHEDULES, AT LEAST THIRTY DAYS BEFORE THE FIRST QUARTERLY SCHOLARSHIP
6 PAYMENT IS MADE FOR THE PUPIL. THE DEPARTMENT OF EDUCATION SHALL NOT MAKE
7 ANY RETROACTIVE PAYMENTS FROM THE FUND.

8 F. ON PROPER DOCUMENTATION REVIEWED AND APPROVED BY THE DEPARTMENT OF
9 EDUCATION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL MAKE SCHOLARSHIP
10 PAYMENTS IN FOUR EQUAL QUARTERLY INSTALLMENTS ON DATES SELECTED BY THE
11 DEPARTMENT OF EDUCATION. THE INITIAL PAYMENT SHALL BE MADE AFTER THE
12 DEPARTMENT OF EDUCATION VERIFIES THAT THE PUPIL HAS BEEN ACCEPTED FOR
13 ADMISSION AT THE QUALIFIED SCHOOL, AND SUBSEQUENT PAYMENTS SHALL BE MADE ON
14 VERIFICATION OF CONTINUED ENROLLMENT AND ATTENDANCE AT THE QUALIFIED SCHOOL.
15 PAYMENT SHALL BE BY INDIVIDUAL WARRANT PAYABLE TO THE PUPIL'S PARENT AND
16 MAILED BY THE DEPARTMENT OF EDUCATION TO THE QUALIFIED SCHOOL OF THE PARENT'S
17 CHOICE, AND THE PARENT SHALL RESTRICTIVELY ENDORSE THE WARRANT TO THE
18 QUALIFIED SCHOOL FOR DEPOSIT INTO THE ACCOUNT OF THE QUALIFIED SCHOOL.

19 G. LIABILITY SHALL NOT ARISE ON THE PART OF THE STATE BASED ON THE
20 AWARD OR USE OF AN ARIZONA SCHOLARSHIP.

21 H. THE STATE BOARD OF EDUCATION MAY ADOPT RULES TO CARRY OUT THE
22 PURPOSES OF THIS ARTICLE, EXCEPT THAT THE INCLUSION OF ELIGIBLE QUALIFIED
23 SCHOOLS IN THE SCHOLARSHIP PROGRAM SHALL NOT BE CONSTRUED TO EXPAND THE
24 REGULATORY AUTHORITY OF THIS STATE OR ITS OFFICERS OR ANY SCHOOL DISTRICT TO
25 IMPOSE ANY ADDITIONAL REGULATION OF QUALIFIED SCHOOLS.

26 15-891.05. Limitation of regulation on qualified schools

27 A. IN ANY LEGAL PROCEEDING CHALLENGING THE APPLICATION OF THIS ARTICLE
28 TO A QUALIFIED SCHOOL, THIS STATE BEARS THE BURDEN OF ESTABLISHING THAT THE
29 LAW IS NECESSARY AND DOES NOT IMPOSE ANY UNDUE BURDEN ON QUALIFIED SCHOOLS.

30 B. A QUALIFIED SCHOOL SHALL NOT BE REQUIRED TO ALTER ITS CREED,
31 PRACTICES OR CURRICULUM IN ORDER TO REDEEM GRANTS ISSUED PURSUANT TO THIS
32 ARTICLE OR IN ORDER TO PARTICIPATE AS A QUALIFIED SCHOOL.

33 15-891.06. Program termination

34 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2016 PURSUANT
35 TO SECTION 41-3102.

36 Sec. 2. Appropriation; purpose; exemption

37 A. The sum of \$2,500,000 is appropriated from the state general fund
38 in fiscal year 2006-2007 to the department of education for deposit in the
39 Arizona scholarship for pupils with disabilities program fund established by
40 section 15-891.04, Arizona Revised Statutes, as added by this act.

41 B. The appropriation made in subsection A of this section is exempt
42 from the provisions of section 35-190, Arizona Revised Statutes, relating to
43 lapsing of appropriations until June 30, 2008.